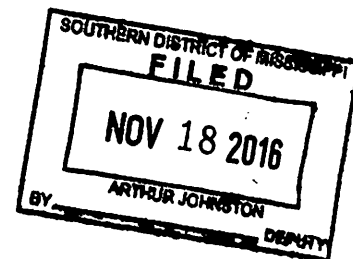


**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**



JEFFERY A. STALLWORTH

PLAINTIFF

VS.

CIVIL ACTION NO. 3: 16-cv-00578-HTW-LRA

**GOVERNOR DEWEY PHILLIP "PHIL" BRYANT,
STATE OF MISSISSIPPI, MISSISSIPPI LEGISLATURE,
EAST METRO PARKWAY, AND
MISSISSIPPI DEPARTMENT OF TRANSPORATION**

DEFENDANTS

**RESPONSE AND MOTION TO STRIKE DEFENDANT'S RESPONSE TO PLAINTIFF'S
NOTICE OF DISMISSAL**

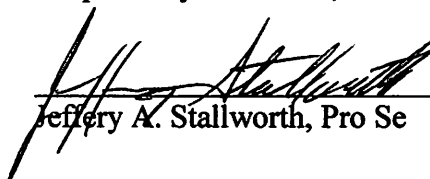
COMES NOW the Plaintiff, Jeffery A. Stallworth, Pro Se, and files this his Response and Motion to Strike Defendant's Response to Plaintiff's Notice of Dismissal and in support thereof, would show the following, to-wit:

1. Federal Rule of Civil Procedure 41(a)(1)(A)(i) affords Plaintiff the right to dismiss his action without prejudice and without a court order by filing a notice of dismissal before the opposing party files an answer or a summary judgment motion. The dismissal without prejudice is achieved by filing the Notice of Dismissal.
2. The Defendant has not yet filed a Motion for Summary Judgment. Instead the Defendant filed a Motion to Dismiss and an Answer. Plaintiff is entitled to unilaterally dismiss his action without prejudice under Rule 41a(1)(A)(i) of the Federal Rules of Civil Procedure if the Defendant has not yet filed a motion for summary judgment and it clearly has not filed such a motion.

3. The Plaintiff effectuated the Notice of Dismissal upon filing because under the rule no court order is required. Defendant has not filed a summary judgment motion. Therefore, the Defendant's Response should be stricken under Rule 12b(F) of the Federal Rules of Civil Procedure and the Plaintiff should be allowed to dismiss this action without prejudice under Rule 41a(1)(A)(i) of the Federal Rule of Civil Procedure.

WHEREFORE PREMISES CONSIDERED, the Plaintiff prays that the Court will grant his Response and Motion to Strike Defendant's Response to Plaintiff's Notice of Dismissal as improper and honor the Notice of Dismissal Without Prejudice.

Respectfully submitted,

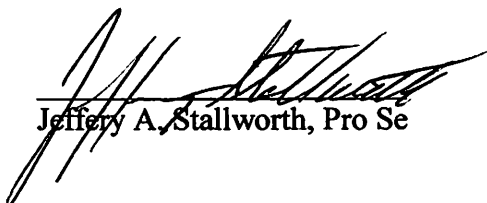


Jeffery A. Stallworth, Pro Se

CERTIFICATE OF SERVICE

I, Jeffery A. Stallworth, pro se, hereby certify that I have this day caused to be electronically mailed to Defendant Department of Transportation by and through its counsel Dan Smith with the Mississippi Attorney General's this my Response and Motion to Strike Defendant's Response to Notice of Dismissal Without Prejudice.

Dated: November 18, 2016



Jeffery A. Stallworth, Pro Se